REMARKS

Claim 8 have been amended in a manner that is believed to distinctly and clearly claim the subject matter that is regarded as applicants' invention. Applicants have made every effort to answer the Examiner's questions by making it clear that there is no correlation between the time required to conduct tests on the first aliquot portion and the period of time for which the second aliquot portion is retained on the analyzer.

Claim 8 has been further amended to specify storing the second aliquot portion during the storage period of time as opposed to throughout the entire period of time.

Claim 8 has been even further amended to specify gathering information from a look-up table to determine a storage period of time for the second aliquot portion based on the identity of the tests to be performed on the patient's sample. Support for the look-up table now specified in claim 8 may be found in paragraph [0043] of the specification.

For the sake of simplicity in prosecution, all claims except claim 8 have been canceled so as to focus on an embodiment of Applicants invention believed to be allowable as now presented. The Examiner is invited to make any additional amendments that are found to be necessary.

Claim Rejections –35 USC §112

Claims 1-2, 4-6 and 8-10 are rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants view as their invention.

Concerning unclearness, claim 8 has been amended to specify that the second aliquot portion contained in the aliquot storage vessel is re-tested.

Concerning testing on the first aliquot portion, claim 8 has been amended to specify that the analyzer is operated so as to perform tests on the first aliquot portion after it is extracted from the original sample container.

Concerning the time to test the first aliquot portion and the time to store the second aliquot portion, it is believed that the claims make it clear that there is no correlation therebetween.

Claims 9 and 10 have been canceled.

In view of the amendments and the discussion provided above, it is respectfully requested that the rejection of claim 8 under 35 USC §112, second paragraph, be withdrawn.

Claim Rejections –35 USC §102

Claims 1-2, and 8-9 are rejected under 35 USC §102(a) as being anticipated by Young (US 3,565,582). The Examiner cites Young for teaching "methods and means for handling blood test specimens" wherein:

> *"Upon withdrawal of a test sample a specimen upon which other tests are to be run is placed in storage and is then submitted to another timed sequence of steps including sample withdrawal, testing and presentation of test results. The storage step may be included in the time sequence of the step.* " (col. 4, lines 10-16).

Relative to claim 8, Young does not disclose gathering information from a look-up table to determine a storage period of time for the second aliquot portion based on the identity of tests to be performed to be completed on the patient's sample. Young only discloses "Upon withdrawal of a test sample a specimen upon which other tests are to be run is placed in storage." Consequently Young does not teach each and every aspect of claim 8 and it is respectfully requested that the rejection of claim 8 under 35 USC §102(a) as being anticipated by Young (US 3,565,582) be withdrawn.

Claim Rejections –35 USC §103

Claims 4, 6 and 10 are said to be rejected under 35 USC 102(b) as being anticipated by Young. These claims have been canceled.

Claims 1-2, 4-6 and 9-10 are rejected under 35 USC 103(a) as being unpatentable over Mazza (US 5,350,564) in view of Thorne et al (US 4,678,752, IDS). Claims 1-2, 4-6 and 9-10 have been canceled.

The Examiner cites Mazza for disclosing storing a sample until such time as valid test results are reported at which point in time, the sample are off-loaded from the analyzer. The Examiner cites Thorne for teaching the provision of an expiration date for reagents in a bar code and suggests that it would have been obvious to "include information on the time period during which the sample can be retained in storage . . . as taught by Thorne for reagents" . . . "because the samples should be stored only for the time period when they might be required for re-testing."

Importantly, relative to claim 8, neither Mazza nor Thorne disclose gathering information from a look-up table to determine a storage period of time for the second aliquot portion based on the identity of tests to be performed to be completed on the patient's sample. Mazza discloses storing a sample until such time as valid test results are reported. Thorne teaches the provision of an expiration date for reagents in a bar code and even if one were to modify Mazza's method "by including information on the time period during which the sample can be retained in storage", such a combination does not "gather information from a look-up table to determine a storage period of time for the second aliquot portion based on the identity of tests to be performed to be completed on the patient's sample" as claim 8 requires. Applicants therefore respectfully request that the rejection of claim 8 under 35 USC 103(a) over Mazza and Thorne is overcome and request that it be withdrawn.

Claim 5 is rejected under 35 USC 103(a) as being unpatentable over Mazza in view of Thorne et al and further in view of art, for example Boosalis et al (US 4,362,698, IDS). In response, claim 5 has been canceled.

Regarding rejection of the pending claims over the prior art,

Regarding Mazza, the Examiner states that "the test on the second aliquot is performed during the storage time period and so the second aliquot cannot be stored for the whole period of time indicated in the indicia." The Examiner is correct and claim 8 has been amended to specify that the second aliquot portion is stored during the period of time. Stated another way, the period of time indicated in the indicia is a maximum period of time for which the second aliquot portion may be stored and at any time during the maximum time, the second aliquot portion may be re-tested.

Regarding "how the identity of a specific test determines how long a second aliquot portion is to be stored", Applicants have amended claim 8 to specify gathering information from a look-up table to determine a storage period of time for said second aliquot portion based on the identity of said tests as suggested by the Examiner.

Conclusion

Applicants believe that this application contains patentable subject matter and that the foregoing amendments provide a basis for favorable consideration and allowance of claim 8; such allowance is respectfully requested. If any matter needs to be resolved before allowance, the Examiner is encouraged to call Applicants' representative at the number provided below.

Respectfully submitted,

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